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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203541
Party	Defendant Google Inc.
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Submission	Answer
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Date	11/20/2012
Attachments	Answer - GOOGLE+.pdf (6 pages)(171873 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application No. 85358119
Mark: GOOGLE+

ANDRE ROSSOUW,

Opposer,

v.

GOOGLE INC.,

Applicant

Opposition No. 91203541

**GOOGLE INC.'S ANSWER TO OPPOSER'S AMENDED OPPOSITION TO
GOOGLE INC.'S APPLICATION FOR THE GOOGLE+ MARK**

Applicant Google Inc. ("Google") by and through its attorneys hereby answers Opposer Andre Rossouw's Opposition in the above-entitled matter as follows:

1. Google lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Opposition and therefore denies them.
2. Google lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Opposition and therefore denies them.
3. Google denies the allegations in paragraph 3 of the Opposition, except Google admits that it filed U.S. Trademark Application Serial No. 85/358119 for the GOOGLE+ mark on June 28, 2011.
4. Google lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Opposition and therefore denies them.
5. Google lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Opposition and therefore denies them.
6. Google denies the allegations in paragraph 6 of the Opposition.

7. Google denies the allegations in paragraph 7 of the Opposition.

8. Google denies the allegations in paragraph 8 of the Opposition.

9. Google denies the allegations in paragraph 9 of the Opposition.

10. Google denies the allegations in paragraph 10 of the Opposition.

11. Google denies the allegations in paragraph 11 of the Opposition.

12. Google denies the allegations in paragraph 12 of the Opposition, except Google admits that the GOOGLE+ mark is an extension of its pre-existing and famous GOOGLE-formative names and marks.

13. Google lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Opposition and therefore denies them, except Google admits that its famous GOOGLE-formative names and marks predate and have priority over the GOOGABOX mark.

All allegations in the Opposition, whether explicit or implicit and including averments, which require an answer are denied to the extent that those allegations are not expressly and specifically admitted herein. Moreover, pursuant to Rule 8(b)(6) of the Federal Rules of Civil Procedure, allegations in the Opposition, to which no responsive pleading is required shall be deemed as denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

The Opposition fails to plead facts sufficient to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Lack of Standing)

Opposer lacks standing to assert the claims in this Opposition.

THIRD AFFIRMATIVE DEFENSE

(Ownership of Federal Registration)

Opposer's claims are barred against Google due to Google's ownership of federal trademark registrations for GOOGLE-formative names and marks, which predate Opposer's alleged mark.

FOURTH AFFIRMATIVE DEFENSE

(Trademark Priority)

Opposer's claims are barred by as he does not have priority in the alleged mark over Google.

FIFTH AFFIRMATIVE DEFENSE

(Abandonment)

Opposer's claims are barred by the doctrine of trademark abandonment.

SIXTH AFFIRMATIVE DEFENSE

(Unclean Hands)

Opposer's claims are barred by his unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

(Estoppel)

Opposer's claims are barred, in whole or in part, by the doctrine of equitable estoppel.

EIGHTH AFFIRMATIVE DEFENSE

(Laches)

Opposer's claims are barred, in whole or in part, by the doctrine of laches. Specifically, on information and belief, Opposer has unreasonably delayed in asserting any claimed rights against Google causing material prejudice due to that delay. On information and belief, this unreasonable delay and prejudice includes Opposer's failure to oppose Google's pre-existing and famous GOOGLE-formative names and marks.

NINTH AFFIRMATIVE DEFENSE

(Acquiescence)

Opposer's claims are barred, in whole or in part, by the doctrine of acquiescence. Specifically, on information and belief, Opposer's actions establish its assent to Google's registration of U.S. Trademark Application Serial No. 85/358119. On information and belief said actions include Opposer's consent to Google's registration of its pre-existing and famous GOOGLE-formative names and marks, which furthered Google's activities in connection with U.S. Trademark Application Serial No. 85/358119 and the GOOGLE+ mark.

TENTH AFFIRMATIVE DEFENSE

(Invalidity)

Opposer's claims are barred as his trademark is invalid on one or more grounds, including but not limited to those set forth in the Lanham Act.

These answers and affirmative defenses are based on the knowledge and information currently available to Google, and Google reserves the right to seek amendment of these answers or affirmative defenses pursuant to Federal Rule of Civil Procedure 15 and any other applicable rule, statute or case law, based on facts later discovered, pled, or offered.

WHEREFORE, Google prays that Opposer's Opposition be denied and that judgment be entered in favor of Applicant, Google Inc.

Respectfully submitted this 19th day of November, 2012.

By: /s/ Eric J. Ball
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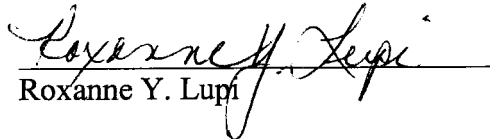
PROOF OF SERVICE BY MAIL

I declare that:

I am employed in the County of Santa Clara, California. I am over the age of eighteen years and not a party to the within cause; my business address is Silicon Valley Center, 801 California Street, Mountain View, CA 94041. On the date indicated below, I served the within **GOOGLE INC.'S ANSWER TO OPPOSER'S OPPOSITION TO GOOGLE INC.'S APPLICATION FOR THE GOOGLE+ MARK**, on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Mountain View, California, addressed as follows:

Andre Rossouw
7535 Whitsett Avenue, Apt. 2
North Hollywood, California 91605

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 20th day of November, 2012.


Roxanne Y. Lupi